

REFERENCE TITLE: Native American tribes; revenue sharing

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SB 1522

Introduced by
Senators Hale, Garcia: Soltero

AN ACT

AMENDING SECTION 42-5029, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION
PRIVILEGE TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-5029, Arizona Revised Statutes, is amended to
3 read:

4 42-5029. Remission and distribution of monies: definition

5 A. The department shall deposit, pursuant to sections 35-146 and
6 35-147, all revenues collected under this article and articles 4, 5, 8 and 9
7 of this chapter pursuant to section 42-1116, separately accounting for:

8 1. Payments of estimated tax under section 42-5014, subsection D.

9 2. Revenues collected pursuant to section 42-5070.

10 3. Revenues collected under this article and article 5 of this chapter
11 from and after June 30, 2000 from sources located on Indian reservations in
12 this state.

13 4. Revenues collected pursuant to section 42-5010, subsection G and
14 section 42-5155, subsection D.

15 B. The department shall credit payments of estimated tax to an
16 estimated tax clearing account and each month shall transfer all monies in
17 the estimated tax clearing account to a fund designated as the transaction
18 privilege and severance tax clearing account. The department shall credit
19 all other payments to the transaction privilege and severance tax clearing
20 account, separately accounting for the monies designated as distribution base
21 under sections 42-5010, 42-5164, 42-5205, 42-5353 and 42-5409. Each month
22 the department shall report to the state treasurer the amount of monies
23 collected pursuant to this article and articles 4, 5, 8 and 9 of this
24 chapter.

25 C. On notification by the department, the state treasurer shall
26 distribute the monies deposited in the transaction privilege and severance
27 tax clearing account in the manner prescribed by this section and by sections
28 42-5164, 42-5205, 42-5353 and 42-5409, after deducting warrants drawn against
29 the account pursuant to sections 42-1118 and 42-1254.

30 D. Of the monies designated as distribution base the department shall:
31 1. Pay twenty-five per cent to the various incorporated municipalities
32 in this state in proportion to their population to be used by the
33 municipalities for any municipal purpose.

34 2. Pay 38.08 per cent to the counties in this state by averaging the
35 following proportions:

36 (a) The proportion that the population of each county bears to the
37 total state population.

38 (b) The proportion that the distribution base monies collected during
39 the calendar month in each county under this article, section 42-5164,
40 subsection B, section 42-5205, subsection B and sections 42-5353 and 42-5409
41 bear to the total distribution base monies collected under this article,
42 section 42-5164, subsection B, section 42-5205, subsection B and sections
43 42-5353 and 42-5409 throughout the state for the calendar month.

44 3. Pay an additional 2.43 per cent to the counties in this state as
45 follows:

1 (a) Average the following proportions:

2 (i) The proportion that the assessed valuation used to determine
 3 secondary property taxes of each county, after deducting that part of the
 4 assessed valuation that is exempt from taxation at the beginning of the month
 5 for which the amount is to be paid, bears to the total assessed valuations
 6 used to determine secondary property taxes of all the counties after
 7 deducting that portion of the assessed valuations that is exempt from
 8 taxation at the beginning of the month for which the amount is to be paid.
 9 Property of a city or town that is not within or contiguous to the municipal
 10 corporate boundaries and from which water is or may be withdrawn or diverted
 11 and transported for use on other property is considered to be taxable
 12 property in the county for purposes of determining assessed valuation in the
 13 county under this item.

14 (ii) The proportion that the distribution base monies collected during
 15 the calendar month in each county under this article, section 42-5164,
 16 subsection B, section 42-5205, subsection B and sections 42-5353 and 42-5409
 17 bear to the total distribution base monies collected under this article,
 18 section 42-5164, subsection B, section 42-5205, subsection B and sections
 19 42-5353 and 42-5409 throughout the state for the calendar month.

20 (b) If the proportion computed under subdivision (a) of this paragraph
 21 for any county is greater than the proportion computed under paragraph 2 of
 22 this subsection, the department shall compute the difference between the
 23 amount distributed to that county under paragraph 2 of this subsection and
 24 the amount that would have been distributed under paragraph 2 of this
 25 subsection using the proportion computed under subdivision (a) of this
 26 paragraph and shall pay that difference to the county from the amount
 27 available for distribution under this paragraph. Any monies remaining after
 28 all payments under this subdivision shall be distributed among the counties
 29 according to the proportions computed under paragraph 2 of this subsection.

30 4. PAY 65.51 PER CENT OF THE MONIES THAT ARE COLLECTED FROM SOURCES
 31 LOCATED ON INDIAN RESERVATIONS IN THIS STATE TO THE RESPECTIVE INDIAN TRIBES
 32 IN THIS STATE IN PROPORTION THAT THE AMOUNT COLLECTED ON EACH INDIAN
 33 RESERVATION BEARS TO THE TOTAL AMOUNT COLLECTED ON ALL INDIAN RESERVATIONS.

34 ~~4.~~ 5. After any distributions required by sections 42-5030,
 35 42-5030.01, 42-5031, 42-5032 and 42-5032.01, and after making any transfer to
 36 the water quality assurance revolving fund as required by section 49-282,
 37 subsection B, credit the remainder of the monies designated as distribution
 38 base to the state general fund. From this amount:

39 (a) The legislature shall annually appropriate to:

40 (i) The department of revenue sufficient monies to administer and
 41 enforce this article and articles 5, 8 and 9 of this chapter.

42 (ii) The department of economic security monies to be used for the
 43 purposes stated in title 46, chapter 1.

44 (iii) The Arizona arts endowment fund established by section 41-986,
 45 the full amount by which revenues derived from the amusement classification

pursuant to section 42-5073 for the current fiscal year exceed the revenues that were derived from that classification in fiscal year 1993-1994, except that this amount shall not exceed two million dollars through fiscal year 2008-2009.

(iv) The firearms safety and ranges fund established by section 17-273, fifty thousand dollars derived from the taxes collected from the retail classification pursuant to section 42-5061 for the current fiscal year.

(b) The state treasurer shall transfer to the tourism fund an amount equal to the sum of the following:

(i) Three and one-half per cent of the gross revenues derived from the transient lodging classification pursuant to section 42-5070 during the preceding fiscal year.

(ii) Three per cent of the gross revenues derived from the amusement classification pursuant to section 42-5073 during the preceding fiscal year.

(iii) Two per cent of the gross revenues derived from the restaurant classification pursuant to section 42-5074 during the preceding fiscal year.

E. If approved by the qualified electors voting at a statewide general election, all monies collected pursuant to section 42-5010, subsection G and section 42-5155, subsection D shall be distributed each fiscal year pursuant to this subsection. The monies distributed pursuant to this subsection are in addition to any other appropriation, transfer or other allocation of public or private monies from any other source and shall not supplant, replace or cause a reduction in other school district, charter school, university or community college funding sources. The monies shall be distributed as follows:

1. If there are outstanding state school facilities revenue bonds pursuant to title 15, chapter 16, article 7, each month one-twelfth of the amount that is necessary to pay the fiscal year's debt service on outstanding state school improvement revenue bonds for the current fiscal year shall be transferred each month to the school improvement revenue bond debt service fund established by section 15-2084. The total amount of bonds for which these monies may be allocated for the payment of debt service shall not exceed a principal amount of eight hundred million dollars exclusive of refunding bonds and other refinancing obligations.

2. After any transfer of monies pursuant to paragraph 1 of this subsection, twelve per cent of the remaining monies collected during the preceding month shall be transferred to the technology and research initiative fund established by section 15-1648 to be distributed among the universities for the purpose of investment in technology and research-based initiatives.

3. After the transfer of monies pursuant to paragraph 1 of this subsection, three per cent of the remaining monies collected during the preceding month shall be transferred to the workforce development account

1 established in each community college district pursuant to section 15-1472
2 for the purpose of investment in workforce development programs.

3 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
4 subsection, one-twelfth of the amount a community college that is owned,
5 operated or chartered by a qualifying Indian tribe on its own Indian
6 reservation would receive pursuant to section 15-1472, subsection D,
7 paragraph 2 if it were a community college district shall be distributed each
8 month to the treasurer or other designated depository of a qualifying Indian
9 tribe. Monies distributed pursuant to this paragraph are for the exclusive
10 purpose of providing support to one or more community colleges owned,
11 operated or chartered by a qualifying Indian tribe and shall be used in a
12 manner consistent with section 15-1472, subsection B. For purposes of this
13 paragraph, "qualifying Indian tribe" has the same meaning as defined in
14 section 42-5031.01, subsection D.

15 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
16 subsection, one-twelfth of the following amounts shall be transferred each
17 month to the department of education for the increased cost of basic state
18 aid under section 15-971 due to added school days and associated teacher
19 salary increases enacted in 2000:

- 20 (a) In fiscal year 2001-2002, \$15,305,900.
- 21 (b) In fiscal year 2002-2003, \$31,530,100.
- 22 (c) In fiscal year 2003-2004, \$48,727,700.
- 23 (d) In fiscal year 2004-2005, \$66,957,200.
- 24 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
25 \$86,280,500.

26 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
27 subsection, seven million eight hundred thousand dollars is appropriated each
28 fiscal year, to be paid in monthly installments, to the department of
29 education to be used for school safety as provided in section 15-154 and two
30 hundred thousand dollars is appropriated each fiscal year, to be paid in
31 monthly installments to the department of education to be used for the
32 character education matching grant program as provided in section 15-154.01.

33 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
34 subsection, no more than seven million dollars may be appropriated by the
35 legislature each fiscal year to the department of education to be used for
36 accountability purposes as described in section 15-241 and title 15, chapter
37 9, article 8.

38 8. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
39 subsection, one million five hundred thousand dollars is appropriated each
40 fiscal year, to be paid in monthly installments, to the failing schools
41 tutoring fund established by section 15-241.

42 9. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
43 subsection, twenty-five million dollars shall be transferred each fiscal year
44 to the state general fund to reimburse the general fund for the cost of the
45 income tax credit allowed by section 43-1072.01.

10. After the payment of monies pursuant to paragraphs 1 through 9 of this subsection, the remaining monies collected during the preceding month shall be transferred to the classroom site fund established by section 15-977. The monies shall be allocated as follows in the manner prescribed by section 15-977:

(a) Forty per cent shall be allocated for teacher compensation based on performance.

(b) Twenty per cent shall be allocated for increases in teacher base compensation and employee related expenses.

(c) Forty per cent shall be allocated for maintenance and operation purposes.

F. The department shall credit the remainder of the monies in the transaction privilege and severance tax clearing account to the state general fund, subject to any distribution required by section 42-5030.01.

G. Notwithstanding subsection D of this section, if a court of competent jurisdiction finally determines that tax monies distributed under this section were illegally collected under this article or articles 5, 8 and 9 of this chapter and orders the monies to be refunded to the taxpayer, the department shall compute the amount of such monies that was distributed to each city, town and county under this section. The department shall notify the state treasurer of that amount plus the proportionate share of additional allocated costs required to be paid to the taxpayer. Each city's, town's and county's proportionate share of the costs shall be based on the amount of the original tax payment each municipality and county received. Each month the state treasurer shall reduce the amount otherwise distributable to the city, town and county under this section by one thirty-sixth of the total amount to be recovered from the city, town or county until the total amount has been recovered, but the monthly reduction for any city, town or county shall not exceed ten per cent of the full monthly distribution to that entity. The reduction shall begin for the first calendar month after the final disposition of the case and shall continue until the total amount, including interest and costs, has been recovered.

H. On receiving a certificate of default from the greater Arizona development authority pursuant to section 41-1554.06 or 41-1554.07 and to the extent not otherwise expressly prohibited by law, the state treasurer shall withhold from the next succeeding distribution of monies pursuant to this section due to the defaulting political subdivision the amount specified in the certificate of default and immediately deposit the amount withheld in the greater Arizona development authority revolving fund. The state treasurer shall continue to withhold and deposit the monies until the greater Arizona development authority certifies to the state treasurer that the default has been cured. In no event may the state treasurer withhold any amount that the defaulting political subdivision certifies to the state treasurer and the authority as being necessary to make any required deposits then due for the payment of principal and interest on bonds of the political subdivision that

1 were issued before the date of the loan repayment agreement or bonds and that
2 have been secured by a pledge of distributions made pursuant to this section.

3 I. Except as provided by sections 42-5033 and 42-5033.01, the
4 population of a county, city or town as determined by the most recent United
5 States decennial census plus any revisions to the decennial census certified
6 by the United States bureau of the census shall be used as the basis for
7 apportioning monies pursuant to subsection D of this section.

8 J. For the purposes of this section, "community college district"
9 means a community college district **THAT IS** established pursuant to sections
10 15-1402 and 15-1403 **AND** that is a political subdivision of this state.

11 Sec. 2. Conforming legislation

12 The legislative council staff shall prepare proposed legislation
13 conforming the Arizona Revised Statutes to the provisions of this act for
14 consideration in the forty-eighth legislature, first regular session.